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EXAMINER

JOSEPH, THOMAS J

ART UNIT PAPER NUMBER

2174

DATE MAILED: 09/29/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/478,006

Applicant(s)

GOURDOL ET AL.

Examiner

Thomas J Joseph

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8-12-2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24,27-30,32-42,44-46,48-50 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 and 56 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-12,14-24 and 30-55 is/are rejected.
- 7) ☒ Claim(s) 3,8,13,28 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 28 and 29 are objected to because of the following informalities: claims 28 and 29, which cite, "plurality of icons of claim 25, ..." should read, "plurality of icons of claim 27, ...". Claim 25 was canceled while claim 27 was amended to become an independent claim. Appropriate correction is required.

For the purpose of Examination, the Examiner interprets claims 28 and 29 as being dependent on claim 27.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4 – 6, 9, 10, 14 – 16, 30, 32, 33, 37 – 40, and 53 – 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538) and Kinoe et al. (US 6,469,722).

#### **Claim 1, 6, 11, and 16:**

Nowlan discloses a method for varying the size of a plurality of icon images displayed in a display device based upon a preference value (col. 5, lines 23 – 30).

Nowlan teaches a software program that requires a computer readable medium.

Nowlan teaches selecting icons that are enlarged (col. 5, lines 23 – 30). This selection process includes selecting individual icons to perform variable icon sizing. Nowlan

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teaches generating icon images of different respective size, wherein the different sizes of the icon images are based upon said user preference value (col. 5, lines 23 – 30). Nowlan teaches displaying said different sized icon images (col. 5, lines 23 – 30). The different and respective size consists of only two sizes, a larger size and a smaller size. Nowlan teaches a method for detecting the selecting of individual icons (fig. 8). Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window, displaying said icons with different relative sizes within said window (fig. 8). The enlarged icons are a selection of smaller icons that are being considered seriously by the user. Individual icons must be selected before achieving the step of enlargement. The figure further demonstrates generating icon images of different respective sizes, wherein the different sizes of the icon images are based upon said user preference value (fig. 8).

While Nowlan teaches displaying images using two distinct sizes, Nowlan fails to teach storing of icon data representative of varying the size of icon images or of “respective sizes” as cited by the Applicant including various sizes between the two distinct sizes. Kinoe teaches generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values (col. 3, lines 44 – 50). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values taught by Kinoe with the enlarging of icons images disclosed by Nowlan. Doing so enables users to determine which icons to give extra prominence.

**Claim 4, 9 and 14:**

Nowlan demonstrates images of different respective sizes located within a window (fig. 8).

**Claim 5, 10, and 15:**

Nowlan demonstrates retrieving said icon image data from memory and scaling said icon image data in preparation for display on said display device (fig. 8). The enlarge icons associated with alphanumeric characters are examples of icon image data from memory that is displayed on a display device. All images must be processed inside a memory before being displayed on any output device.

**Claim 30:**

Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window and displaying said icons with different relative sizes within said window (fig. 8).

While Nowlan teaches displaying images using two distinct sizes, Nowlan fails to teach storing of icon data representative of varying the size of icon images or of “respective sizes” as cited by the Applicant including various sizes between the two distinct sizes. Kinoe teaches different size icons being based upon characteristics of objects represented by the icons (col. 3, lines 44 – 50). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values taught by Kinoe with the enlarging of icon images

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disclosed by Nowlan. Doing so enables users to determine which icons to give additional prominence.

**Claim 32:**

Nowlan teaches different sizes of said icons are based upon a user preference value given to each of said icons (fig. 8).

**Claim 33, 37, and 39:**

Nowlan and Kinoe teach the rationale of claims 33, 37, and 39 in rejected claim 16.

**Claims 34, 38, and 40:**

Nowlan teaches different sized icon images located within a window (fig. 8).

**Claim 35 and 36:**

Nowlan teaches designating a step comprising the indication of relative size of selected icons (fig. 8). When the user selects a certain icon, the icons in the designated area are increased in relative and absolute size.

**Claims 53, 54, and 55:**

Kinoe teaches a designated user preference value being different for each of the selected icons (col. 3, lines 44 – 50).

4. Claims 2, 7, 12, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538) and Kinoe et al. (US 6,469,722) as applied to claims 1, 6, 11, and 16 above, and further in view of Grossman et al. (5,564,004).

**Claims 2, 7 and 12:**

Nowlan and Kinoe fail to teach sorting icon images into an order based upon said designated preference values. Grossman teaches sorting icon images into an order based upon said designated preference values (col. 2, lines 40 – 50). The increase of use giving an icon greater prominence is a method for sorting. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine sorting icon images into an order based upon said designated preference values taught by Grossman with the icons sizing disclosed by Kinoe and Nowlan. Doing so provides an automated determination of icons that are determined to have greater prominence.

**Claim 17:**

Nowlan and Kinoe fail to teach sorting of icon images into an order based up on said object characteristic. Grossman demonstrates sorting of icon images into an order based up on said object characteristic (fig. 7 – 8). The formula for determining likeliness is a method for sorting. This is sorting icon images into an order based upon said object characteristic. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine sorting of icon images into an order based up on said object characteristic taught by Grossman with the icons sizing disclosed by Kinoe and Nowlan. Doing so provides a method for giving icons determined to be more important greater prominence.

**Claim 18:**

Grossman teaches determining size of icon by associating a maximum sized icon image with an object having one extreme value for the object characteristic (fig. 7 – 8). Icons that are less likely to be used are either made smaller or merged with other icons

automatically. Icons less likely to be used are associated with a minimum sized icon image with an object having another extreme value for the object characteristic.

Further, growing and shrinking icons based on likeliness of use involves assigning sizes to the remainder of said icons images with objects, in proportion to the objects associated with the maximum and minimum sized icons.

5. Claims 19, 22, 41, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538) and Kinoe et al. (US 6,469,722) as applied to claims 1, 6, 11, and 16 above, and further in view of Mernyk et al. (US 6,496,206).

**Claim 19 and 22:**

Nowlan discloses a method for varying the size of a plurality of icon images displayed in a display device based upon a preference value (col. 5, lines 23 – 30).

Nowlan teaches a software program that requires a computer readable medium.

Nowlan teaches selecting icons that are enlarged (col. 5, lines 23 – 30). This selection process includes selecting individual icons to perform variable icon sizing. Nowlan teaches generating icon images of different respective size, wherein the different sizes of the icon images are based upon said user preference value (col. 5, lines 23 – 30).

Nowlan teaches displaying said different sized icon images (col. 5, lines 23 – 30). The different and respective size consists of only two sizes, a larger size and a smaller size.

Nowlan teaches a method for detecting the selecting of individual icons (fig. 8). Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window, displaying said icons with different relative sizes within said window (fig. 8). The enlarged icons are a selection of



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smaller icons that are being considered seriously by the user. Individual icons must be selected before achieving the step of enlargement. The figure further demonstrates generating icon images of different respective sizes, wherein the different sizes of the icon images are based upon said user preference value (fig. 8).

While Nowlan teaches displaying images using two distinct sizes, Nowlan fails to teach storing of icon data representative of varying the size of icon images or of "respective sizes" as cited by the Applicant including various sizes between the two distinct sizes. Kinoe teaches generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values (col. 3, lines 44 – 50). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values taught by Kinoe with the enlarging of icons images disclosed by Nowlan. Doing so enables users to determine which icons to give additional prominence.

Nowlan and Kinoe fail to teach an object characteristic that is a number of files in the object. Mernyk teach proving an object characteristic that is a number of files in the object (fig. 1). The window object includes a number representing the number of files within the said window object. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine display of a number of files on the main object with generating icon images of different respective sizes, wherein the different sizes of the icons images are based upon user preference values with the enlarging of

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icons images disclosed by Nowlan and Kinoe. Doing so informs the user regarding the number of potential files stored within a particular main object area.

**Claim 41 and 49:**

Nowlan, Kinoe, and Mernyk disclose the rationale for claims 41, 45, and 49 in rejected claims 19 and 22. Nowlan teaches software that requires a method, apparatus, and a computer readable medium (abstract). Nowlan, Kinoe, and Mernyk do suggest data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added. Such information is useful to those who are responsible for performing maintenance and evaluating performance of computing equipment.

6. Claims 20, 21, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538), Kinoe et al. (US 6,469,722), and Mernyk et al. (US 6,496,206) as applied to claims 19 and 22 above, and further in view of Grossman et al. (US 5,564,004).

**Claim 20 and 23:**

Nowlan, Kinoe, and Mernyk fail to teach sorting of icon images into an order based up on said object characteristic. Grossman demonstrates sorting of icon images into an order based up on said object characteristic (fig. 7 – 8). The formula for determining likeliness is a method for sorting. This is sorting icon images into an order based upon said object characteristic. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine sorting of icon images into an order based up on said object characteristic taught by Grossman with the icons sizing

disclosed by Kinoe and Nowlan. Doing so provides a method for giving icons determined to be more important greater prominence.

**Claim 21 and 24:**

Grossman teaches determining size of icon by associating a maximum sized icon image with an object having one extreme value for the object characteristic (fig. 7 – 8). Icons that are less likely to be used are either made smaller or merged with other icons automatically. Icons less likely to be used are associated with a minimum sized icon image with an object having another extreme value for the object characteristic. Further, growing and shrinking icons based on likeliness of use involves assigning sizes to the remainder of said icons images with objects, in proportion to the objects associated with the maximum and minimum sized icons.

7. Claims 42, 44, 45, 48, 49, 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538), Kinoe et al. (US 6,469,722), Mernyk et al. (US 6,496,206) and *Windows 95 Uncut* by Alan Simpson.

Nowlan, Kinoe, and Mernyk disclose the rationale for claims 42, 44, 48, 49, 50 and 52 in rejected claims 19 and 22. Nowlan teaches software that requires a method, apparatus, and a computer readable medium (abstract).

While Nowlan, Kinoe, and Mernyk do not disclose outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added. Nowlan does suggest outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently

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an object was added by teaching providing a selectable memory and info item on the toolbar (fig. 3).

**Claim 42, 44, and 50:**

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic being the amount of memory that the object uses (p. 401). The file items within the list represent objects that include the amount of memory they use. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine the object characteristic being amount of memory that the object uses taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

**Claim 45:**

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic being the number of files in the object (p. 401). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine the number of files in the object taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

**Claim 46, 48, and 52:**

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic containing a date. This date is interpreted as being an object characteristic that measures how recently the object was added or amended (p. 401). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine an object characteristic containing a date taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

***Allowable Subject Matter***

8. Claims 27 and 56 are allowed.
9. While claims 28 and 29 contain allowable subject matter, <sup>however,</sup> said claims 28 and 29 are objected to due to informalities.
10. Claims 3, 8, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter: Claims 3, 8, 13, 27 – 29 and 56 teach the specific equation of  $(\text{max}-\text{min})/(\text{N}-1)$  wherein N is the number of applications given a preference, min is the minimum icon size, and max is the maximum icon size. Nowlan discloses a minimum and maximum size for icons (fig. 8) but fails to provide a preference for the number equation as taught

by the Applicant. McComb (US 6,111,573) teaches dynamic sizing according to content (col. 7, lines 10 – 20) but fails provide a specific sizing formula as taught by the Applicant. Morgan teaches dynamically adding icons (col. 2, lines 35 – 42) and container control (col. 1, lines 45 – 50) but fails to teach icon sizing as taught by the Applicant. Grossman teaches icons disappearing and reappearing based on usage (fig. 8 and 10). Grossman can be interpreted as a type of growing and shrinking. Grossman fails to teach use of a maximum and minimum formula based on number of applications as taught by the Applicant.

### ***Response to Arguments***

12. The Applicant provides a new Oath in response to the objection to the Oath by the Examiner. The Examiner withdraws the said objection to the Oath by the Examiner.

The Applicant responds to the rejection of claims 23 and 24 by requesting that the Examiner provide specific passages stating how Nowlan and Grossman suggest “such information” (i.e. size, memory used, etc.). The Examiner responds by stating: While Nowlan, Kinoe, and Mernyk do not disclose outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added. Nowlan does suggest outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added by teaching providing a selectable memory and info item on the toolbar (fig. 3).

Applicant's other arguments with respect to claims 1 – 24, 27 – 30, 32 – 42, 44 – 46, 48 – 50 and 52 have been considered but are moot in view of the new ground(s) of rejection.

Do to at least the above reasons; the rejections of claims 1 – 24, 27 – 30, 32 – 42, 44 – 46, 48 – 50 and 52 remain standing. Further, the Examiner issues a new rejection for newly added claims 43 – 55.

**Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J Joseph whose telephone number is 703-305-3917. The examiner can normally be reached Mondays through Fridays from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*Kristine Kincaid*  
KRISTINE KINCAID  
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tjj  
September 12, 2003